IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WA.No. 2983 of 2007

AGAINST THE JUDGEMENT IN WPC.34522/2007 DATED 22/11/2007

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APPELLANT/PETITIONERS

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1. ASWATHY P.V.,
   PINOOR HOUSE,
   PANAVALLY P.O.,
   CHERTHALA.

2. BINDU K.GEORGE,
   PUTHTENANGADY HOUSE,
   AYAMKUDY P.O.,
   KADUTHURUTHY.

3. MARY PRINCY M.P.,
   VELLEPARAMBIL HOUSE,
   NORTH PALATHURUTHY,
   KALOOR.

4. PREETHY ABRAHAM,
   PANICKASSERIL HOUSE,
   THEVARA.

5. SHEMLA CORREYA,
   CHERUPUNATTIL HOUSE,
   BOLGHATTY, MULAVUKADU P.O.

6. BEJEENI BABY,
   KUDIYIRIPPIL HOUSE,
   MATTOOR,
   KALADY P.O.

7. ASWATHI K.B.,
   KUDIYIL VEEDU,
   OKKAL P.O.,
   OKKAL.

8. THAZNEEM K.M.,
   KADAPPALLYKULAYIL,
   CHAMGHAPUZHA NAGAR,
   SOUTH KALAMASSERY,
   ERNAKULAM.

9. RAJEETHA RAVINDRAN,
   RATHIKALAYAM HOUSE,
   KALLIKAVU P.O.,
   MALAPPURAM.

10. EMY VARGHESE,
KURINJIKKAL HOUSE,
PERINGHALA P.O.,
ERNAKULAM.

11. SURESH M.S.,
MANELIL HOUSE,
VALAYANCHIRA P.O.,
ERNAKULAM.

12. CHRIS CYRUS,
ARRAKKAL HOUSE,
MUNDAMVELI.

BY ADVS. SRI.J.JULIAN XAVIER &
SRI.FIROZ K.ROBIN

RESPONDENTS/RESPONDENTS & PETITIONERS 3, 5 & 7:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM-14.

3. THE DEPUTY DIRECTOR OF EDUCATION,
ERNAKULAM.

4. ST.JOSEPH TEACHERS TRAINING INSTITUTE
FOR WOMEN, KOVILVATTOM ROAD,
ERNAKULAM,
KOCHI-682 035, REPRESENTED BY ITS PRINCIPAL.

5. NATIONAL TEACHERS TRAINING INSTITUTE,
VENGOLLA, PERUMBAVOOR,
REPRESENTED BY ITS PRINCIPAL.

6. ASSISSI TEACHERS TRAINING INSTITUTE,
EDAKOCHI, REPRESENTED BY ITS PRINCIPAL.

7. REGIONAL DIRECTOR,
SOUTHERN REGIONAL COMMITTEE,
NATIONAL COUNCIL FOR TEACHER EDUCATION,
CSD BUILDING, 1ST FLOOR,
HMT P.O.,
BANGALORE.

8. MARY HIMA K.V.,
KANNAMPUZHA HOUSE,
THOTTUMUGHOM P.O.,
ALUVA-5.

9. MELVIN MARY A.A.,
THOTTAKATH HOUSE,
CHERANELLOR P.O.,
KOCHI.

10. ROSE MARY A.R.,
ATHIPOZHY HOUSE,
SAUDE,
MUNDAMVELI P.O.,
KOCHI-7.

R1 TO R3 BY SR. GOVERNMENT PLEADER SMT. K. MEERA.

R7 BY ADV. SHRI V. M. KURIAN, SC.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, CJ. & K. M. JOSEPH, J.

W.A. NO. 2983 OF 2007

Dated this the 18th December, 2007

JUDGMENT

H.L.DATTU, CJ,

This writ appeal is filed against the orders passed by the learned Single Judge in W.P.(C) No.34522 of 2007 dated 22.11.2007, by the writ petitioners being aggrieved by the said orders.

2. Facts in brief are:

The petitioners in the writ petition are all students admitted to the Teachers' Training Course (for short, TTC) in the respective Self Financing Teachers Training Institutes run by respondents 4 to 6. In the writ petition filed, they had sought for writ in the nature of certiorari, to quash Exts. P3 and P7. Ext.P3 is passed by the second respondent, Director of Public Instruction by which the eligibility criteria have been modified. Ext.P7 is an order passed by the Government, declining to seek relaxation from NCTE in regard to minimum eligibility in the higher secondary examination for admission to TTC, pursuant to the direction issued by this Court in W.P.(C) No.21609/07 and connected matters disposed of on 21.8.2007.

3. Ext.P7 order passed by the State Government dated 1.11.2007 is as under:

> "The Hon'ble High Court in its judgment read above has directed the Government to decide whether it is necessary to request the National Council for Teacher Education for relaxing eligibility Criteria regarding the minimum percentage of marks prescribed for admission to TTC Course. Government have examined the matter in detail. According to the National Council for Teacher Education norms as well as the KERs the minimum marks prescribed for TTC admission is 50% in Higher Secondary Examination. The State is experiencing no dearth of candidates with 50% marks in

> Higher Secondary Examination. In this circumstances, Government felt it not necessary to allow any relaxation in the eligibility criteria regarding minimum marks for admission to TTC and there is no need to take up the question of relaxation with National Council for Teacher Education. The requirement of 50% marks in Higher Secondary Examination as the minimum qualifying marks for securing admission to TTC Course will continue. This order is issued in compliance with the common judgment read above."

4. By Ext.P7 order, the State Government has declined to seek relaxation from National Council for Teacher Education ('NCTE' for short) in regard to the minimum eligibility criteria in the Higher Secondary Examination for admission to TTC.

5. Based on Ext.P1 Notification and Ext.P2 Government Order, petitioners are admitted students, who have secured just 45% marks and above, but less than 50% marks. Subsequently, petitioners were informed by Ext.P3 that the minimum eligibility stated in Ext.P1 should be read as 50% marks. Petitioners' contention is that before such communication was received, the admissions were already over and therefore admissions already granted to students having 45% and above, but less than 50% marks obtained in the Higher Secondary Examination, may not be cancelled.

6. The learned Single Judge, while disposing of the writ petition, has considered Ext.P6 judgment passed in W.P.(C) No.21609 of 2007 and connected matters, which were filed by the students having 45% marks and who had secured admission in TTC. In the said judgment, the court has taken the view that the relief sought for by the students cannot be granted, since the minimum eligibility prescribed by the NCTE is 50% marks in the qualifying examination/Higher Secondary Examination. However, taking a more sympathetic view in the matter, the court had only directed the State Government to consider whether, in the facts and

circumstances of the case, it is necessary to request the NCTE for relaxing the eligibility criteria in view of the peculiar situation pleaded by the petitioners.

7. The State Government, by their order dated 1.11.200, has declined to seek relaxation from NCTE on the ground that the State Government is not experiencing any dearth of candidates with 50% marks in the Higher Secondary Examination and therefore, it is not necessary to seek any relaxation from NCTE. Aggrieved by the said order passed by the State Government, petitioners were before this court in W.P.(C) No.34522/07.

8. The learned Single Judge, after considering in depth and detail has come to the conclusion that once the minimum eligibility criteria is fixed by NCTE for admission to a particular course and the same requires to be adopted by the State Government, that cannot be relaxed. Therefore, the petitioners are not entitled to the relief sought in the writ petition. The learned Single Judge has also found that the State has necessary statistics to support their reasoning and without reference to such material the State Government would not have passed Ext.P7 order.

9. When this Writ Appeal came up for admission before this court, we had directed the learned Government Pleader to secure appropriate information about the number of students, who have passed Higher Secondary Examination for the last three years with 50% and above marks.

10. The learned Government Pleader, today, produced before us the letter of the State Government dated 15.12.2007. In that, it is stated that during the academic years 2004-2005, 2005-2006 and 2006-2007, nearly 155779, 166725 and 195681 students had passed the Higher Secondary Examination for the last three years with 50% and above marks.

11. Learned counsel appearing for the appellants Sri. P.K.M. Hassan

states that the reasoning of the State Government that there is no dearth of students in the State, is ignoring the fact that the Government is unable to allot sufficient number of students in the merit quota to the TTC.

12. The admitted facts are that respondents 4 to 6 are imparting Teachers Training Course. May be because of Ext.P1 and Ext.P2, they have admitted some students, who have secured 45% and above but less than 50% marks. By Ext.P3 order, the institutions are informed that the eligibility criteria for admission to the TTC is 50% marks alone, since the same is fixed by the NCTE.

13. The NCTE, having been established under the National Council for Teachers Education Act, 1993 enacted by the Parliament and the Central Government having considered the matter at national level, the recognition of the institution offering course in teachers training and allied matters connected therewith, the final authority in the said matter lay with NCTE. [See, **State of Maharashtra vs. Sant Dhyaneswar Shikshan Shastra Mahavidyalaya and others**, (2006) 9 SCC 1]. It is the NCTE which has fixed 50% marks as the minimum eligibility criteria for admission to TTC. It is expected of the Colleges to adhere to the minimum qualification prescribed by the NCTE. The said qualification fixed by the NCTE cannot be relaxed by the officers of the State Government. Having issued Ext.P1 order and having realised the mistake at the earliest, the respondents have informed the petitioners' Colleges that the minimum qualifying mark requires for admission to the students is 50% or above and it cannot be 45% or less than 50%. Keeping all these aspects of the matter in view and also taking into consideration the statistics that was available with the State, the learned Single Judge, in our opinion, has rightly rejected the writ petition. Having gone through the orders passed by the learned Single Judge, we are of the opinion that the learned Single Judge has not

committed any error whatsoever, which would call for our interference in this writ appeal. Accordingly, the writ appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

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